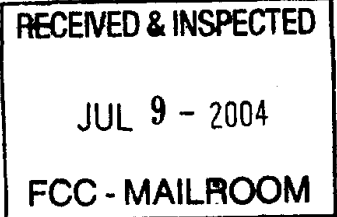


Before the  
Federal Communications Commission  
Washington, D.C. 20554



In the Matter of )  
 )  
Amendment of Section 73.202(b) )  
Table of Allotments, )  
FM Broadcast Stations. ) MB Docket No. 04-164  
(Susanville, Quincy, and Corning, ) RM-10548  
California). )

TO: Assistant Chief, Audio Division  
Media Bureau.

REPLY COMMENTS OF MICHAEL R. BIRDSILL.

Michael R. Birdsill ("Birdsill"), hereby submits these REPLY COMMENTS in the above-captioned Rulemaking Proceeding. COMMENTS were filed by the Petitioner, Corey J. McCaslin ("McCaslin"), in support of his Petition for Rulemaking to Allocate Channel 262A to Susanville, California, with the substitution of Channel 265A for Channel 262A at Quincy, California, and the modification of the License of Station KHGQ (FM), at its current Transmitter Site. Birdsill supports these changes to the FM Table of Allotments, as proposed by McCaslin. Furthermore, Birdsill intends to file an Application for Channel 262A at Susanville, if Allotted.

COMMENTS AND COUNTERPROPOSAL were filed by Keily Miller ("Miller"), the Licensee of Station KHGQ (FM), Quincy, California. Birdsill hereby **OPPOSES** the COMMENTS AND COUNTERPROPOSAL of Miller.

No. of Copies rec'd  
List ABCDE

014

As a threshold Matter, Birdsill requests that the Commission rule on and make known it's findings **as to whether it is permissible to advance a Change in the Community of License of an FM Station as a Counterproposal in a Rulemaking Proceeding**, as proposed by Miller in the present Proceeding. Birdsill contends that the Commission **should not accept** a Change in the Community of License of an FM Station as a Counterproposal in a Rulemaking Proceeding, as it appears to be an attempt to **"Fast Track"** a Proposal that would normally **be required to be filed as a discrete Petition for Rulemaking**. As a discrete Petition for Rulemaking, that Proposal would undergo analysis as to it's Acceptability by Commission Staff. The, if found to be Acceptable, the Proposal would be Released to the Public via a Notice of Proposed Rulemaking, with the prescribed COMMENT and REPLY COMMENT periods.

Birdsill further contends that Miller was effectively "Cut-Off" from seeking Change in the Community of License (either by Counterproposal or discrete Petition for Rulemaking) once McCaslin's Petition was Adopted and Released by the Commission. McCaslin 's Petition for Rulemaking was filed in **September 2001**. At any time prior to the Release of the Notice of Proposed Rulemaking for the present Proceeding (some 2 years, 8 months), Miller was free to prepare and prosecute a discrete Petition for Rulemaking to seek a Change in the Community of License of KHGQ (FM).

Should the Commission conclude that a Proposal to Change the Community of License for an FM Station is an Acceptable

Counterproposal, Birdsill **OPPOSES** Miller's Counterproposal in this Proceeding as failing to comply with the Commission's Rules for Allotments.

The Commission has stated "that the nationwide FM Allotment scheme is constructed on two core technical requirements: (1) that Allotment sites comply with the minimum spacing requirements of Section 73.207, and (2) satisfy the **community coverage requirements of Section 73.315.** " (Thunderbolt Broadcasting Company. Letter Sept. 27, 1996, 1800B3-RPC. Emphasis Added.)

At the Allotment stage, the Commission requires 100 % city-grade (70 dbu) coverage over the entire principal community to be served. Given the lack of certainty as to the eventual transmitter site location, the Commission has used the FM Station Class Contours to determine if this 100 % city-grade coverage can be provided for the proposed Allotment site. In the case of a Class A FM Station, the Class Contour extends a distance of 16.2 Kilometers (km) from a given Site. However, Miller's Allotment Site (39-48-25 NL, 121-37-35 WL) is located **a distance of 23.3 km from the proposed Community of License-Durham, California** (39-38-47 NL, 121-47-56 WL). **See EXHIBIT 1.**

While Miller did submit a computer generated "map" that indicates city-grade coverage extending to Durham, California- **no other information was filed.** Therefore, Miller's "map" can not be accepted as credible, and Miller's Counterproposal should be **DISMISSED** for failing to meet the requirements of Section 73.315 of the Commission's Rules. **Counterproposals are required to be "technically correct and substantially complete" at the**

time they are filed. (Fort Bragg, California. 6 FCC Rcd 5817. Allocations Br. 1991.)

A COUNTERPROPOSAL was also filed by Eastern Sierra Broadcasting ("ESB"), which proposes Allocating Channel 264A to Portola, California as its first local service. That Allocation would conflict with McCaslin's proposal to move KHGQ (FM) Quincy, California from Channel 262A to Channel 265A. ESB contends that the Allocation of 264A to Portola, as a first local service, is a higher priority than adding a fourth FM Allocation (McCaslin's proposed Channel 262A) to Susanville, California. Therefore, ESB requests that the Commission NOT Allot Channel 262A to Susanville, the Commission NOT move KHGQ (FM) from Channel 262A to Channel 265A, and then Allot Channel 264A to Portola.

Birdsill supports ESB's Proposal to Allocate Channel 264A to Portola, California as a first local service. However, Birdsill **OPPOSES** ESB's proposal to NOT Allocate Channel 262A to Susanville, California. Therefore, Birdsill has located an Alternate FM Channel for use by Station KHGQ (FM) at Quincy, California, rather than Channel 265A, as proposed by McCaslin. FM Channel 232A is available for use by Station KHGQ (FM), and is fully Spaced at its present Transmitter Site. See EXHIBIT 2.

#### CONCLUSION.

Birdsill requests that the Commission do the following


based upon these REPLY COMMENTS :

- 1.) Allot Channel 262A to Susanville, California, as requested by McCaslin.
- 2.) Dismiss Miller's Counterproposal.
- 3.) Substitute Channel 232A for Channel 262A at Quincy, California, and modify the License of KHGQ (FM) at its current Transmitter Site.
- 4.) Allot Channel 264A at Portola, California as requested by ESB.

Michael R. Birdsill.  
REPLY COMMENTS  
MB Docket No. 04-164  
RM-10548

In compliance with Section 1.52 of the Commission's Rules,  
the statements and data contained in these REPLY COMMENTS are  
accurate to the best of my knowledge.

DATE: 8 July 2004

Signature:   
Michael R. Birdsill  
P.O. Box 1921  
Chico, CA. 95927

**Certificate of Service.**

I, Michael R. Birdsill, hereby certify that a copy of the foregoing REPLY COMMENTS was sent this 8 day of July, 2004, via first class U.S. Mail, postage prepaid, to the following:

Keily Miller  
Licensee of KHGQ (FM)  
250 W. Nopah Ave  
Pahrump, NV 80960

Chris Kidd, President  
Eastern Sierra Broadcasting  
P.O. Box 590  
South Lake Tahoe, CA. 96156

James A. Koerner  
Attorney for Keily Miller  
5809 Nicholson Lane, Suite 124  
North Bethesda, MD 20852

Jack W. Fritz II, President  
Licensee of Station KTHU (FM)  
Results Radio Licensee, LLC  
1355 North Dutton Ave,  
Suite 255  
Santa Rosa, CA. 95401

William H. Fitz  
Attorney for Results Radio  
Licensee, LLC  
Covington & Burling  
1201 Pennsylvania Ave, NW  
Washington, D.C. 20004-2401

Signature:



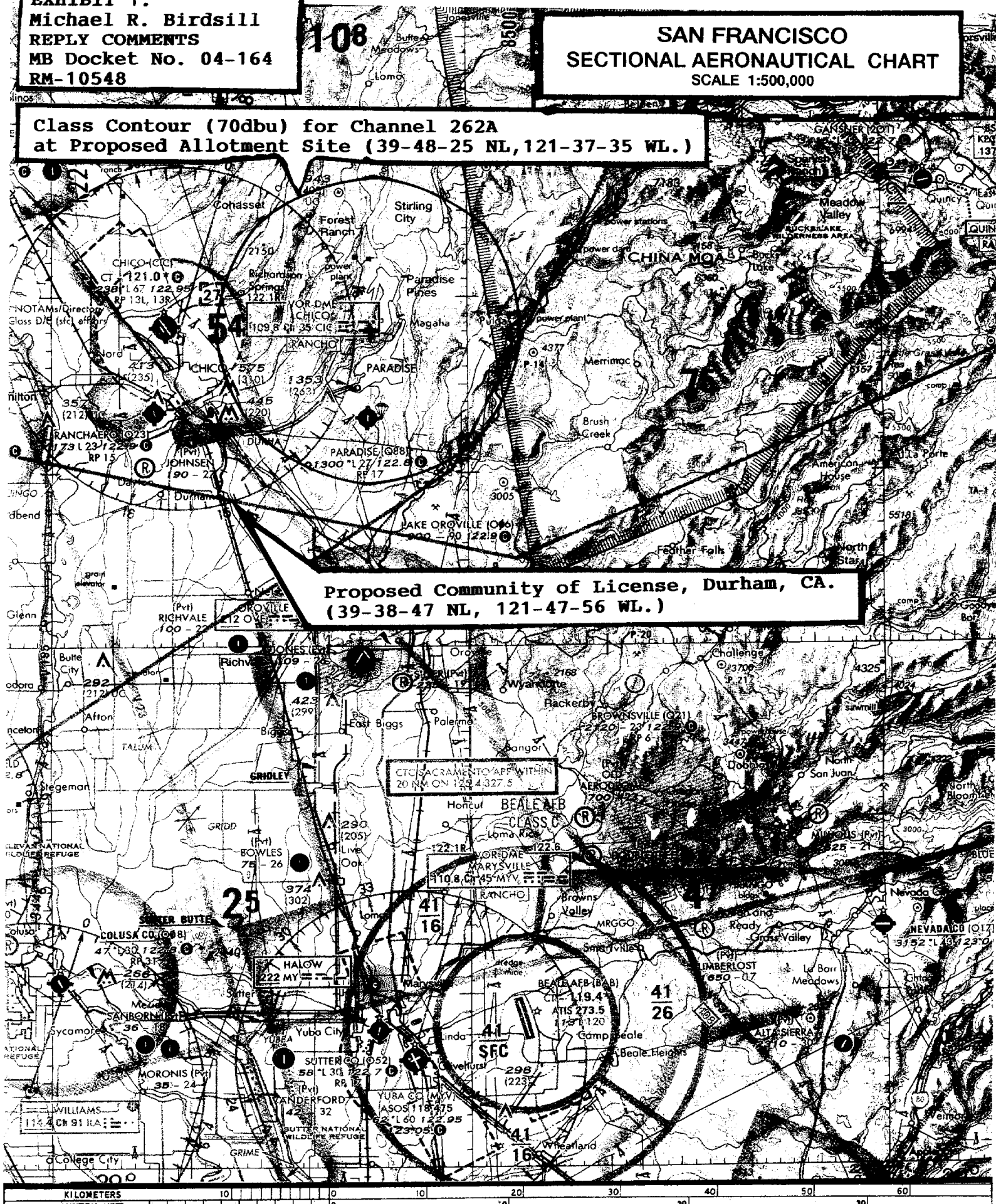
Michael R. Birdsill  
P.O. Box 1921,  
Chico, CA. 95927

Michael R. Birdsill  
REPLY COMMENTS  
MB Docket No. 04-164  
RM-10548

**SAN FRANCISCO**  
**SECTIONAL AERONAUTICAL CHART**  
**SCALE 1:500,000**

**Class Contour (70dbu) for Channel 262A  
at Proposed Allotment Site (39-48-25 NL, 121-37-35 WL.)**

Proposed Community of License, Durham, CA.  
(39-38-47 NL, 121-47-56 WL.)





**EXHIBIT 2.**  
**Michael R. Birdsill**  
**REPLY COMMENTS**  
**MB Docket No. 04-164**  
**RM-10548**

Spacing to relevant FM Channels for FM Channel 232A at KHGQ(FM)  
Transmitter Site (39-56-15 NL, 120-56-49 WL) at Quincy, CA.

CALL SIGN City of License	Channel Freq.(MHz)	Distance (km)	Required (km)
KWNZ Sun Valley, NV	229A 93.7	106.0	31.0
KFMF Chico, CA.	230B1 93.9	66.2	48.0
KNCO-FM Grass Valley, CA.	231A 94.1	76.8	72.0
KOSL Jackson, CA.	232B1 94.3	172.2	143.0
KHXR Sun Valley, NV	233C2 94.5	106.0	106.0
KSSJ Fair Oaks, CA.	234B1 94.7	144.3	48.0
PRM Lakeview, OR	235C1 94.9	216.5	75.0
KYIX South Oroville, CA.	285A 104.9	54.3	10.0
KNCI Sacramento, CA.	286B 105.1	144.4	15.0